

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

KINLEY MACDONALD,

Plaintiff,

v.

BRIGHTON POLICE CHIEF, et al.,

Defendants.

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Civil Action No. 23-10020-IT

ORDER

March 15, 2023

TALWANI, D.J.

Pro se Plaintiff Kinley MacDonald, who is confined at the Cumberland County Jail in Portland, Maine, has filed an Application to Proceed in District Court without Prepayment Fees or Costs [#5], which is commonly referred to as a motion for leave to proceed *in forma pauperis*. For the reasons set forth below, the court will deny the motion without prejudice.¹

As the court explained in its previous Order [#4] regarding the filing fee, a prisoner who seeks leave to proceed without prepayment of the filing fee must file a completed Application accompanied by a “certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6–month period immediately preceding the filing of the complaint . . . obtained from the appropriate official of each prison at which the prisoner is or was confined.” 28 U.S.C. § 1915(a)(2). If the court grants the Application, a prisoner plaintiff may proceed with

¹ On February 8, 2023, the court issued an Order [#6] denying the Application without prejudice. The court ordered Plaintiff to pay the filing fee or file a renewed Application with a prison account statement within twenty-one days. Plaintiff has not filed anything in response to that order, but it is unclear from court records whether the order was mailed to Plaintiff. Accordingly, the court VACATES the February 8, 2023 order.

his action without prepayment of \$350 statutory filing fee, *see* 28 U.S.C. § 1914(a), or the \$52 administrative filing fee. Nonetheless, the prisoner plaintiff is still required to pay the \$350 statutory filing fee over time, *see* 28 U.S.C. § 1915(b)(1)-(2), even if his complaint is dismissed upon the court's initial screening of the complaint under 28 U.S.C. §§ 1915(e)(2) or 1915A.

Here, Plaintiff did not include a six-month prison account statement with his Application. Accordingly, the court DENIES the Application without prejudice.

If Plaintiff wishes to proceed with this lawsuit, he must, within twenty-one (21) days (1) pay the \$402.00 filing fee; or (2) file a renewed Application accompanied by the six-month prison account statement required under 28 U.S.C. § 1915(a)(2). Failure of Plaintiff to comply with this directive will result in dismissal of this action without prejudice.

The Clerk shall provide Plaintiff with a blank Application. The Clerk shall also send a copy of this order to the Treasurer's Office of the Cumberland County Jail to facilitate any request by Plaintiff for his six-month prison account statement.

IT IS SO ORDERED.

/s/ Indira Talwani
United States District Judge

March 23, 2023